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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,392	11/12/2003	William Edward Hogwood	02996.0003.CNUS02	4345

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EXAMINER

CROSS, ALAN

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

88

Office Action Summary	Application No. 10/705,392	Applicant(s) HOGWOOD ET AL.	
	Examiner Alan Cross	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 14-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 14-19 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13, drawn to the apparatus, classified in class 463, subclass 42.
- II. Claims 14-19, drawn to the method, classified in class 463, subclass 25.

Newly submitted claims 14-19 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Inventions apparatus and 2 are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case The process as claimed can be practiced by hand as bookies and race tracks have booked or sent wagers of a certain amount to one who had the financial backing for the large wager. The apparatus as claimed can be used to practice another materially different process such as a communication system using bets where users can bet and accepts on items and events.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

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Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-19 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

The drawings were received on 6/22/06. These drawings are accepted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2, 5-7, 9,10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable by Brenner et al., U.S. Patent No. 6,099,409 in view of Aronson et al. U.S. Patent No. 6695701. Brenner discloses a system for interactive wagering on an event from a remote location over a network. A general-purpose personal computer device is in communication with the network. The general-purpose computing device provides a user-customizable personalized wagering experience (See Brenner Fig. 29-34; col. 7 lines 25-67; col. 8 lines 1-4; col. 10 lines 41-45). A wager server is in communication with the general-purpose computing device over the network and receives wager information related to the event from a user (See Brenner Fig. 29; col. 5 lines 63-67; col. 6 lines 1-5). An event location device is in communication with the wager server over the network and compiles result information related to the event and provides settlement information related to wagers placed (See Brenner Fig. 29; col. 5 lines 39-53; col. 6 lines 14-30) [claim 1]. A financial center is in communication with the network and supports an account of the user for receiving the settlement information from the event location device. The account of the user is debited based on unsuccessful wagers and credited based on successful wagers (See Brenner col. 8 lines 57-67; col. 9 lines 1-4; col. 12 lines 54-65; col. 15 lines 48-67; col. 16 lines 1-12) [claim 2]. Brenner describes credit card transactions using a magnetic stripe card. It is implicit that the device provides a reader to read the magnetic stripe (See Brenner col. 4 lines 56-60; col. 20 line 34) [claim 5]. A computer runs software customizable by the user where the computer enables the user to save wagers for future or repeat

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placement (See Brenner col. 12 lines 11-52) [claim 6]. A wager server communicates with a plurality of users using a plurality of general-purpose personal computing devices and a plurality of event location devices, thereby enabling wagering on a plurality of remote events (See Brenner Figs. 1, 29) [claim 7]. The general-purpose computing device provides the user-customizable personalized wagering experience by communication with the wager server, wherein the manner in which content served by the wager server is controllable by the user (See Brenner Figs. 3, 31-34) [claim 9] and wherein the general purpose personal computing device is enable to allow the user from the remote location to place personal wagers on the event (col. 7 25-30). Brenner lacks accepting wagers on the event from a third party, automatically submitting at least a first portion of accepted wagers to the wager server, and booking a second portion of wagers and a threshold betting value so that accepted wagers above the betting value are submitted to the wager server and any accepted wagers below the threshold betting value are booked by the user. Aronson teaches accepting wagers (col. 1 30-40, col. 2, 14-24, col. 7, 63-67), the user placing the bet would be the third party and the operator of the gambling system would be the first party. Aronson also teaches automatically submitting accepted wagers to the wager server and automatically booking a second portions of wagers (col. 16, 58-67, col. 17, 1-5) and where wager value changes where the bet is accepted or sent (col. 19, 2-25). When a wager is too large it would upset the bookmaker book causing them to not accept the bet, where then it would be sent to a pari-mutual pool that can handle the wager. It would have been obvious to one of ordinary skill in the art to use the system of Brenner with the teaching of Aronson where

bets are accepted from a 3rd party and automatically accepting a wager so that it would be beneficial for the bookmaker or pari-mutuel pool. It would allow bookkeepers to keep their risk reasonable so their book is balanced to keep their risk down and allow a user to be able to bet large sums and not worry about not getting their bet being rejected.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al., U.S. Patent No. 6,099,409 in view of Aronson et al. U.S. Patent No. 6,695,701. Brenner discloses all of the aforementioned limitations but lacks in having a plurality of wager servers. It is well known throughout the art to employ more than one server in a system to allow the system to support a greater number of users or different geographic locations. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the remote wagering system disclosed in Brenner to add the feature of a plurality of wagering servers to allow the system to server a greater number of users or different geographical locations.

Claims 3 and 4,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. and Aronson in view of Luciano et al., U.S. Patent No. 6,168,521 B1. Brenner discloses a system adapted for use by a retail user (See Brenner Fig. 48) [claim 4]. For example, Brenner includes means for a user to input funds to pay for wagers. Brenner lacks in disclosing a receipt printer for issuing receipts, a barcode scanner for scanning issued receipts and having the barcode scanner provide data to the computer. Luciano teaches an analogous gaming device that issues receipts and scans barcodes on receipts to provide data to the computer (See Luciano col. 2 lines 46-65; col. 3 lines 34-45; col. 4 lines 39-54) [claim 3,4]. It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user-computers taught by Brenner and Aronson to add the features of a barcode scanner for scanning issued receipts and having the barcode scanner provide data to the computer. As suggested by Luciano, the modification would enhance the gaming device by providing computers with physical means to record and verify evidence of a player's wager.

Response to Arguments

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

The objection to the Oath have been withdrawn in response to corrections made.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cross whose telephone number is 571-272-5529. The examiner can normally be reached on 8-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARC 571-272-5529


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TC3700